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International Court of Justice

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PLEA

FOR THE

ORGANIZATION SA

Submitted by

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Your Lordship, High Tribunal:

It is in contradiction to the fundamental rights of everyman to be made responsible only in accordance with his own guilt, if he could be submitted by the possible result of the collective indictment against the organizations to the provisions of law number 10 of the Allied Control Council. An atonement without guilt has been considered injust since the beginning of human history. The one who desires to punish therefore has to establish the guilt of each individual if more than one have participated in a crime. If the planning of a crime is considered punishable as an act of preparation, only those can be punished, in accordance with the legal and moral principles which had been in force up to now, who participated in the plan, that means who joined together just for the desired and conscientious carrying out of that purpose.

At no time have those principles which emerged from fundamental human rights been replaced in any national criminal law by the concept of "Conspiracy". Based on the definition developed by the main prosecutor, a guilt results when

(1) An association existed for the accomplishment of a/joined and common plan.

(2) When the aims were criminal.

(3) The pursuance of those aims produced the criminal deed inevitably and finally.

(4) The method of the carrying out of the deed was in accordance with either means agreed upon at the time of joining or subsequently approved of.

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We must therefore examine

(A) To what extent the here mentioned facts of a conspiracy are covered by the concept of law as presented by the Prosecution, and

(B) To what extent these facts were carried out by the members of the organizations.

Seen from here, the fact of a conspiracy limited not only by German concepts of law, but also by well-known penal laws of other civilized countries, seems to cover completely the limit established by the Prosecution in the court session of the 28th of February 1946, so that, if we recognize the soundness of this argument, we have only to examine the aforementioned second question, i.e., to what extent members of the SA involved themselves criminally in the execution of thus limited facts.

This question touches upon a judgment of value and a question of fact. First a judgment of value inasmuch as the concept "criminal", which is used in connection with the aims of the organization, necessitates an unequivocal limitation.

For German subjects, actions committed within the German power sphere, are criminal, only if they are punishable by the German penal laws. According to principles of International Law, which have been recognized until now, a people is not bound to consider criminal what other peoples consider as criminal, but only what it has adopted in its own ethical and legal awareness as "criminal".

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At any rate, after conscientious investigation of this question we find, that the German people without exception,-that is also the mass of the members of the SA indicted in Nuernberg, - has never differed in its ethical and legal basic attitude from the fundamental laws of the rest of the civilized world. The millions of its members consider as a crime a war of aggression as defined in Article VI of the Charter. Furthermore, all SA members would never argue the point that actions as defined in Article VI of the Charter as crimes against humanity have always contradicted to their principles and must therefore merit to become criminal from their standpoint.

Apart from the premises of the trial which are contested, the defense must only investigate the question, whether the accused organization, the SA, at any time endeavored to realize such criminal aims, or permissible aims which preduded methods however of criminal character.

This has been alleged by the Prosecution.

The aims of the accused organizations were clearly outlined by the Party program and the Charter. The means for the realization of these aims were visibly limited in the Reich Laws and regulations published in the Reich Legal Gazette. As an accused organization can be considered only an affiliation of persons whose common and general endeavor was exclusively directed towards realization of the indicated aims with means admissible according to German law.

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Thus the aims and the legally limited means for the realization of these aims which were openly known not only to the members of the accused organization, but to the entire world, can not have been considered criminal by the world which formally recognized the National Socialist government even after the union of Party state was emphasized, despite their knowledge of the aims and legally limited methods for which this National Socialist Government was responsible. Not only did the world recognize this government, but this recognition was repeatedly and visibly expressed to the German people by the conclusion of a number of interstate contracts and at the end still in the Munich agreement of the 29th September 1938 and in the Russo-German Non-Aggression Pact and the Secret Amendment of the 24th AUGUST 1939.

The criminal character of the SA alleged by the Prosecution must be founded differently then by a mere indication of the criminal character of the National Socialist ideology. If the idea itself is not already criminal then the criminal character of an organization intended to carry out these ideas can be derived - if at all - only from the criminal methods, which, to use a phrase of the Tribunal, "were so completely evident or had become known to the members of the accused organization in another way that it can be generally assumed correctly that the members had been informed about these purposes and activities."

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Thus the Tribunal itself has defined with unequivocal clarity the objective and subjective characteristic parts of an action which must be fulfilled if the International Military Tribunal wants to de - signate the SA as a criminal organization.

To characterize an organization or an individual only typical occurrences may be used which we find in other countries also without being occasioned so far to designate the executor of these occurrences as criminal. To be fair, therefore, these occurrences can also not be used in the proceedings of the International Tribunal to prove the criminal character of the accused organizations. Thus, it can not seem just to the defense if the Prosecution tries to derive the criminal character of the accused organization, for instance, by establishing that the Party and their organization effectively control the machinery of the State, quite apart from the fact that the SA did not have power to do this.

Even if we submit the use of such methods by the SA, they are not unique in the world, and do not belong into the past. But as long as these methods are not regarded and treated as criminal all over the world, they should not justly be used as a criminal characteristic/ of the criminal character of the indicted National Socialist organization. The allegations of the Prosecution to this effect must therefore be eliminated with the establishment of the proof of a criminal quality.

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Just as little may be used for the declaration of the criminal character of the SA those happenings which have taken place entirely outside of the frame work of the SA organization, happenings of which "in general it cannot justly be assumed anymore that the members were informed about the happenings."

Thus, the Defense of the SA has to prove that:

1) There did not exist at any time a common and joint plan of the SA members to commit crimes of the nature described in Article 6 of the Charter.

2) That neither at the time of their joining, nor during any other period of time the mass of the members of the SA were trained to realize the Party Program or the special aims of the SA by the use of illegal means, particularly, by the employment of terror and force.

3) That if illegal actions have been ascertained, the result of the examination and interrogation of many thousands of members showed that these happenings lack the characteristics of a plan involving the mass of members and that therefore - because they were standing entirely outside of a common, joint plan - can be charged only to a certain group of individuals or very limited categories, or groups of persons within the SA.

It is not true that behind those horrible and

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shameful events, there was from the very beginning a general and common plan of a mass organization to commit actions of this type, or that these actions really "were so completely open or had otherwise so generally come to the knowledge of the members; that the members as a whole can rightly be legally charged with their knowledge."

As for the crimes against peace presented by the Prosecution, it must be stated first that preparations for a war of aggression, if they are to lead to the desired goal, must under all circumstances remain secret. Even if it were true that the Reich Cabinet or the General Staff had prepared a war of aggression, there is an almost irrefutable assumption that they not only did not inform the indifferent mass of millions of SA members but on the contrary, saw to it scrupulously that these preparations remained secret. But if such preparations was unknown, then the mass millions could at no time have the consciousness/ that the defensive war begun by the Reich leadership, was in reality, as the Prosecution contends, a war of aggression, participation in which might perhaps have been evaluated as a crime against the peace.

Crimes against the customs and rules of warfare are, according to their nature, individual actions of closely restricted groups of persons or formations, which are also kept secret by the higher leadership in order to prevent the international law principle of retaliation from being applied. Even if it were possible to see in the mere approval of such violations of the recognized rules and laws of warfare

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a punishable participation, the prosecution would still have the problem - which has not yet been solved and which is probably not capable of solution - first to bring evidence that at least the overwhelming majority of the SA members had known of such a planned commission of crimes against the customs and rules of warfare. Quite aside from these assumptions, which are contrary to essential contention of the Prosecution, however, the defense can prove, after questioning many thousands of SA members, that, if violations of the law occurred, they turned out to be, according to a legally necessary analysis by time and place, on the whole, only mutually independent actions of individual persons or closely restricted groups of persons, free from any general planning; therefore, there is not justification for treating them as "typical manifestations" of a uniform plan which might justify characterizing the SA as criminal.

One cannot raise the objections to this evidence of the defense that its conclusions have no claim to complete recognition because the investigation covered only a part of the millions of organization members included in the charge against the organizations and that there was not justification for generalizing the result in the sense of the conclusions drawn by the defense.

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For, it is not the fault of the defense that part of the members could not be heard; in cooperation with the General Secretary's Office, the defense did everything possible to have those witnesses brought from the Russian Zone with whom they were able to correspond up to the time when the witnesses were named. I state, furthermore, that the SA members living in the Russian Zone could not be given their due hearing since according to my information, most of them were kept in ignorance of the charge against the organization. This is one of the most important objections to the trial which will always remain in history. I should also like to emphasize the limitations arising for the defense from the fact that in spite of all efforts and indication of exact addresses, part of the witnesses living in other zones did not show up. In particular, the witnesses Fust, Lucke, Alvensleben and Wallenhoefer are missing. Because of the failure of appearance of these witnesses, the statistics of the SA and the relief fund are also lacking, which are necessary to form a just judgment of events before the year 1933, which would have shown the terror agains the SA. Moreover, a part of the documents which were requested and which were approved by the Court did not reach the hands of the defense.

Thus, the International Military Tribunal in the judgment which it has to pass can base its decision only on the fact that illegal actions were committed only by a limited number of persons or numerically restricted groups of persons whose activities can no more place the stamp of "criminality" on the organizations as a whole

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than a number of crimes to be found in any nation can characterize that nation as a criminal nation.

To sum up, from the point of view of the defense, one may state that the charge raised against the organization SA as a whole and affecting even the war dead, lacks basic formal and material prerequisites, the neglect of which involved in any unfavorable decision of the Court cannot be reconciled with the "healthy popular feeling" or with the efforts of the United Nations which were born form painful experience, "to restore confidence and fundamental human rights and to create conditions under which justice and respect for international law can be maintained."

The Prosecution states that the declaration of criminality is necessary in order to create the prerequisites of condemnation of a large part of the non-transferrable immediate perpetrators as well as to punish the moral accomplices. According to the charges of the Prosecution, the supreme SA leadership - to give the main charges - must have done or tolerated the following:

(a) prepared or planned or ordered a war of aggression,

(b) tolerated or carried out atrocities or other crimes in the concentration camps.

The presentation of evidence has clearly established that no orders were given to this effect by the supreme SA leadership and that no misdeeds were tolerated.

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If a war of aggression had really been planned, only a few people, but never 4,000,000 could have been concerned in this planning. The perpetrators of the Jewish persecutions, limited as to locality and time, are known, or at least traceable, Since the localities of the Jewish persecutions in November 1938 are known and the perpetrators can be established by witnesses or by documents as is proven by the present trials for the Jewish pogroms in 1938, for instance in Weissenhurg and Hof, it is unnecessary to create an assumption through a declaration of criminality, especially since these actions were refuted by the majority of SA members. The localities where concentration camps were situate and the names of those responsible for the actions committed in these camps are well known. This is borne out by the numerous trials against concentration camp commanders and military guards. Are millions of SA members, 70% of which were at the front, when during the Second World War these terrible happenings took place in the concentration camps, be made responsible for them, when even ministers declare that they had no knowledge of these events? It is the perpetrators who should be seized. A collective arrest, however, of 4,000,000 men, is unprecedented and unique in the history of penal law. This measure is inhuman and is based upon the extending of the concept "Helper", which disregards all the legal security and the principles of all criminal codes.

The basic idea for the conspiracy is that an adhesion to an organized group of persons, which, at the moment of joining, is already prohibited, is punishable, Upon their joining, the newcomers must therefore be conscious of the fact that they are committing an unlawful action.

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A retroactive declaration of criminality aiming at making a subsequent proceeding against individual members possible, violates the principle "nulla poena sine lege". The International Control Council has expressly established this principle in its first law of Law Practice in Germany. The International Tribunal cannot disregard a general legal principle of the inter-allied legislative organ, which is authorative for Germany.

In case of a declaration of criminality, another principle would be violated. Through the recognition of the German State and thus of its leadership, through the constant participation of representatives, a noteworthy occasions, such also as SA maneuvers, through different agreements, the allied powers have the example that they recognized the German leadership and its organizations as legal. The document which I cited, quoted, "SA 229", "The political ordinance of the Inter-allied Rhineland Commission and its Application in the years 1920-1924", establishes that on the 21st of March 1925, the Rhineland Commission revoked the inhibition of the German Liberty Party (Freiheitspartei) and of the National Socialist Party. An affidavit from the Palatinate (Pfalz) (affidavit General SA Number 42), which was submitted by the defense, shows that all social functions organized by the NSDAP and the SA were approved by the French occupational authorities before the year 1930. The foreign policy of the Allied States must have had a better view of the entire political situation than millions of simple SA men, who, considering the political situation, could not have had the impression of committing an illegal act by entering or remaining in the SA.

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The present Prosecution of the organization then recognized contradicts the universally accepted legal principle: "nemo in factum proprium venire potest", This norm of Roman Law which is used as a rule of interpretation in international law, claims universal validity.

The Prosecution employes considering the SA a number of over-simplifications concerning purpose, place, time, and cooperating personalities which alone enable to the Prosectuion to give a basis for the declaration of criminality. In other words: the Prosecution acts as if there had existed a uniform personality "the SA" that means one with a uniform leadership, responsibility, common purpose, intention, membership, and uniform attitude. Without such generalizations the Prosectuion would never accomplish its aim; for instance, in the questio of aggressive warfare and the persecution of the Jews. By doing so it abandons the original problem of mass liability which justly can be solved by a great number of individual statements and the study of the agreement of action and aim in a majority of the members. In contrast to such an opinion, we cannot stress too strongly the factual split of SA concerning the aims of the leadership as well as the membership, and the limitation in time and space of the deeds which make the things which happened nothing but individual occurrences which took place within an organization of four millions during a period of existence lasting twenty years.

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It would have been necessary for the Prosecution to prove that the majority of the members of the SA held the design, had the inner will, possessed knowledge of the criminal purpose and of the facts as well as of the general consciousness of the unlawfulness. As this is impossible the Prosecution put forward the theory that the facts and purposes were so obvious that everyone might have been aware of them. If all this had been so clear to millions of simple people why, then, did the Allies until 1939 maintain relations with, and made agreements with, this State which, it is alleged was supported by bands of criminals? The theory that the members of the SA would have been in a position to know and ought to have known in these circumstance the criminal aims and deeds, involves the abandonment of any real examination of the question as to what the majority of the members did, or did not know.

The Prosecution practically content themselves with the hypothesis of design. In doing so it overlooks innumerable speeches which were made to cheat the German people, it forgets

1) that quotations from foreign sources concerning the value of the National Socialist state appeared in the press;

2) that in the course of those twelve years actual events were presented to the German people and to the mass of the members of the SA in a veiled or cleverly adjusted form.

That, furthermore, design can only be considered in conjunction with concrete facts to which I propose to refer later, is so obvious that it is unnecessary for me to say anything further. I merely want to point out that innumerable affidavits

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contained in the collective summary which I have submitted prove the ignorance of, and non-participation in, the following crimes: Persecution of the Jews, planning of a war of aggression or commission of atrocities of all kinds.

B ut I want also to point out in particular that there is no relationship between the main defendants and their actions and the membership in the SA. The SA can - if at all - be rendered responsible only for actions committed by persons in their capacity as members or leaders of the SA, but not for those committed by persons, for instance, in the capacity of Reich Ministers, Reichleiters, Gauleiters, Regional Commissioners, or other functions. Apart from a short term of service in the SA before the 9th of November 1923, GOERING played no part at all in this organization. His subsequent rank was only that of an honorary leader. The same applies to the defendant FRANK; the SA cannot be rendered responsible for his deeds as Governor General of Poland. He was not the leader of the SA formations which were composed of the German nationals or of the members of the German minority doing service in Poland. ROSENBERG, BORMANN, SCHIRACH, STREICHER, HESS, SAUCKEL had no associations with the SA. BORMANN was, as the witness JUETTNER emphasized in his evidence, one of the heaviest opponents of the SA. STREICHER was the man who eliminated the SA-Obergruppenfuehrer STEGMANN.

The propaganda, to which also the Prosecution has fallen victim, shows a national socialist state in which the Party, the State and the Armed Forces on the one hand, and the Party and its organizations on the other, represent one uniform whole. In fact, there existed profound divergencies. It was just owing to these divergencies that Adolf HITLER had an unheard-of power over the persons and an unheard-of independence which he enjoyed, as it has only now become evident, with a limited number of those who had his confidence. I only wish in this connection

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to recall the divergent views held within the Party, that is to say, also as between the leading men like GOERING, GOEBBELS, HIMMLER, LUTZE, on the Church question and the Jewish problem. It was not easy to the average man and to average member of an organization to visualize and to find a clear line on the background of the variety of tendencies manifesting themselves among the various elements concerned.

But none of the problems, in particular not those concerned with war or peace, were in regard to their solution such that they might have been the object of a conspiracy.

JUSTIN R's evidence as well as the affidavits submitted by HOFRAUF and FREUND point to the fact that the supreme leadership of the SA had close associations with British and French quarters up to the moment when it was politically eliminated and that it entertained thes associations with a view to creating a Western Pact. I have proved that financial assistance from abroad was given to the SA in connection with these negotiations, I have also shown that the leadership of the SA was actually engaged, in 1932, in negotiations with German government quarters for a coalition directed against HITLER. I have proved that from a political point of view there existed three tendencies as regards foreign policy. I also indicated that the Eastern and the Western tendency were in sharp contrast to each other. May I, in this connection, refer to the sentence pronounced by the British Prosecution which is contained in the Minutes of the 31st of July 1946 and reads as follows: "If the German side could show that the British government had given economic assistance to the SA in order to bring it into power subject to the condition that ROEHM were placed in control the defense would, indeed, have considerably advanced its own case. Because it is obvious that the government of 1946 could not join in the trial against the SA if it had supported the SA in 1934."

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The affidavit submitted by HOEHRAUF shows very clearly and beyond doubt that the negotiations carried on between Anglo-French political quarters and the SA leadership in those days were, indeed, perfectly obvious. I have furthermore shown that the contacts which were established with British and French quarters represent a thread along which events developed in 1934.

The Prosecution reproached the SA with having at all times been a willing instrument in the hands of the conspirators. The best proof to the contrary are, no doubt, the events of the 30th of June 1934. Again and again the erroneous opinion, is heard in connection with these events that it had been responsible in those days to crush an SA Putsch or a Putsch of a small group intent upon seizing power. There can be no greater mistake than this theory. Because the fact is that, as shown by FREUND's affidavit General SA-83, the SA practically lead a life of its own within the Party. It is clear beyond doubt that at the time of the Chief of Staff ROEHM a great mass of the SA had little or no contact with the Party. The situation in 1934 was such that every free expression of an opinion, particularly also in the Party itself, had been suppressed and regimentation had become almighty. Everything was under the influence of the Gleichschaltung tendency or Party enforcement in all spheres, coercion was triumphant and dominated public life completely. The Reich government had already been practically eliminated at that time. The Reichstag was nothing but a dummy and was of no positive value whatsoever.

There was a time when the SA had enthusiastically stood by their leaders but it now realized that HITLER, as the Chief of Staff put it, surrounded himself with demagogues and non-politicians and, instead of being a national leader, had become a dictator.

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The supreme leadership fo the SA viewed this development with growing distrust because it involved the great danger that the nation which had given unrestricted full powers to the Fuehrer was completely eliminated from the future development of the Reich and its policy. This danger and the conditions created by coercion brought about an untenable situation. Thus, there arose, at first strictly camouflaged, the opposition of the supreme SA leadership under the command of Chief of Staff ROEHM.

The idea was to eliminate the existing system and to replace it with a real government of the people supported by the active cooperation of the whole nation. All the preparations, which were also mentioned by the witness JUETTNER at the meeting of the Commission, were made along these lines. It was shown that ROEHM intended at the Kulmbach meeting to gather information on the situation of the workers as it had emerged from the dissolution of the trade unions by LEY. It must be emphasized in this connection that ROEHM authorized the participation of members of the SA in the action connected with the dissolution of trade-unions only because the organizations of the Left had kept arms in the labor union headquarters, and that it was to be expected at any moment that civil war might spread from these trade union headquarters to the nation in general.

ROEHM intended to dissolve the SS. This is proved by the affidavit of the former SA Brigadefuehrer FREUND. ROEHM's endeavor to achieve the consolidation of the Central European area by way of negotiations with the Western powers is connected whis this new State which was to be created. It has been shown that these negotiations had been under way for a number of years. (JUETTNER's evidence, FREUND's affidavit.)

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One of the last negotiators was SA- Obergruppenfuehrer von Detten, as explained in the affidavit of rigadefuehrer Freund. All the documents dealing with the defense-political aspects of the SA's indictment by the prosecution are related to this unsuccessful attempt made by Chief of Staff Roehm who believed, as the witness Juettner clearly testified, in the creation of a popular militia according to the Swiss model and based upon the framework of the SA as part of the great plan for the creation of a Western Pact. It is regrettable that it was impossible to produce some witnesses who might have given further information on this matter. Roehm's attempt failed. In addition, differences with the Reichswehr also contributed to his downfall. The 30th of June 1934 is the result of this development. The first attempt at putting an end to Hitler's dictatorship had definitely failed. More than 200 SA leaders were shot. Since that time Heinrich Himmler was uncrowned king in Germany.

The true background of the 30th of June 1934 was not to become known in Germany and abroad as this would have seriously shaken Hitler's prestige and that of his government. This was the reason why the camouflage and smokescreening machinery of the press was set in motion on a large scale to divert the attention of the masses, and this was also the reason why so many were shot, who were to be kept silent. Among Party members it was forbidden to discuss the 30th of June 1934 at all.

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It is an interesting parallel that on July 20, 1944, again an SA-leader was participating, SA-Obergruppenfuehrer Graf Helldorf. He was hanged.

Since June 30, 1934, the SA had sunk to complete insignificance. After June 30, 1934, the SA was considered an unpleasant appendix. The SA was considered politically unreliable. Therefore, it, as shown by evidence given before the Commission, was not charged any more with any tasks. The SA's destiny from that day on was nothing but the search for a task. Officially the SA was supposed to take in its hand the premilitary (wehrpolitische) training and athletics.

In reality, however, the Party charged the SA with totally inferior tasks. This attitude of the Party towards the SA became evident in 1939, too. As witness Juettner clearly stated, it was Bormann who sabotaged the decree of January 30, 1939, and who did not permit the carrying through of the premilitary training task of the SA. Witness Bock reported to us the preparation and the beginning of the premilitary and postmilitary training program. He also stated that this task of the SA was terminated. Only the events of the war brought the so-called War-SA-Wehrmannschaften.

Thus the SA never could, in contrast to the claim of the prosecution, participate feverishly in the preparations of war. It is absolutely impossible that as the Prosecution claims 25 000 officers were trained in SA-schools. This claim was quite clearly refuted by the evidence given through the witnesses Juettner and Bock. How unreliable the SA was in the eyes of Bormann shows the fact that

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the Volkssturm was not based on the SA. We learn from submitted affidavit that the reason for this was the unreliability of the SA (General SA No. 67). The elimination of the SA is also demonstrated formally if we recollect that Roehm was Chief of Staff and Minister of the Reich, Lutze Chief of Staff and Reichsleiter, and Schepmann only Chief of Staff.

During the proceedings of the Commission there took place much discussion of the Wehrsport task of the SA. Nothing has been misunderstood more thoroughly than that. The SA has been described by the Prosecution as a semi-military organization of volunteers in spite of the fact that the tasks of the Wehrmacht and the SA have been clearly separated. The misunderstandings resulted mainly from the fact that there is no adequate translation of the word " Wehr". Nevertheless that concept should be clarified; for the Prosecution itself submitted document 2471 PS . There it is said, " The SA, the carrier of the Wehrwille. The SA claims to be the carrier of the Wehrwille and of the Wehrkraft of the German people. The stressing of these qualities might have led to misunderstandings abroad partly because foreign languages are unable to translate correctly the terms " Wehrwille" and " Wehrkraft", but substitute for them, the terms " Kriegswille" or " Kriegskraft", while correctly " Verteidigungswille" or " Verteidigungskraft" should be used. Because " Sich wehren" is a linguistic deviation from Abwehr (Defense). The one who is defending himself in every case is the one who is attacked; and therefore, all allegations of military agressive intentions are perfectly lunatic." Ultimately the Wehrmacht is the concentrated, trained and conducted force of all

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of all men who are able to defend themselves (wehrfaehig). At no time the SA had to do anything with that technical-military training given in the Wehrmacht. Therefore, the SA Athletic badge has been misjudged by the prosecution. It is admitted that it was the purpose of the SA athletic badge to train into " Wehrhafte" citizens. Therefore, it is stated in the first docume t of February 15, 1935: " The new state demands a generation able to resist and a tough one." In the regulations concerning the execution of the document of March 18, 1937, the following is said :

> " The combat training of the body is not a purpose in itself, but the means to strengthen the German men spiritually and physically, to increase their ability to perform and to make them employable and willing to be employed for the maintenance of the nations up into their high age. "

It is also admitted that there exist parallels between the work of the Wehrmacht and the SA. The thought was that the SA would train German men to be a National Socialist and political fighter, while the Wehrmacht would give him the character and technical training of the man bearing arms; it trains him for the defense of the country. However, it would be going too far to call the SA a military troop . At no time did the SA possess any military value. The SA was nothing but an association whose members counted millions and stepped the same step. It is true that from time to time there were conducted group games in the open ; but it was prohibited to use military situations as their basis. The SA man listened to an occasional lecture and, as it is usual in shooting clubs, once every fortnight they practiced with small calibre rifles. That does not permit us to consider the SA a troop, even if every storm should have had a maximum of five small calibre rifles, which, however, was not universally true. At no time did the SA have heavy arms or practice with them.

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The relationship of the SA to the Wehrmacht was corresponding. At no time was it recognized by the Wehrmacht. Rank in the SA -no matter how high- had not the slightest influence on rank in the Wehrmacht. On the contrary. It often had the effect hindering promotion. Special training certificates of the SA, such as cavalry certificates, medical certificates, radio certificates, were not recognized in the Wehrmacht. It is absolutely comical if we read in affidavits that SA men from engineer units were used in communications regiments and SA men from communications divisions were used in engineering units of the army. May I state in detail:

1) The SA uniform was the most unsuitable uniform imaginable for military purposes. In this connection I refer to the testimony of the witness Bock.

2) Aside from the small calibre rifles already mentioned, only dagger and pistol were permitted. Moreover, the dagger was introduced only after the year 1933. Only the Sturmfuehrers had pistols and only part of the Sturmfuehrers carried pistols, since only the customary conditions in Germany for the weapon certificate applied.

3) In the SA there were no means of transportation.

4) In the SA there was no storage ground of heavy weapons and no arsenal of hand firearms. Therefore, there could be no training with them.

5) The SA units did not correspond to the military units.

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The composition and activation was not carried out according to considerations of possible military employment with the exception of the "Standarte Feldherrnhalle", the SA was not housed in permanent barracks. The competence of military service (military registry and military district) did not correspond with the assignments of the SA. A "Standarte" (regiment) in the country, for instance, was split up in many small companies and platoons not fixed in number and not at all comparable to a military regiment.

6) Commands could not be passed on quickly.

7) Maneuvers of military units did not take place.

8.) The SA special units did not have military tasks. They had no military equipment, no military value, and no military mission. The SA cavalry companies served the purpose of cavalry and driving sport. The engineer companies served the purpose of emergency accident service. The signal companies had as their tasks the reading of signals with primitive old-fashioned methods without radio service. This was forbidden as can be seen from an affidavit. Moreover, they were working in the field of health service. They received their training in keeping with the Geneva Convention. (Testimony of Bock, Affidavit General SA-90.)

9.) The so-called Army units "Feldhermhalle" were not subordinate to the supreme SA leadership as evidenced by the affidavit of the former Major-General Pape. (General SA-18.)

10) The SA leadership was not chosen according to military considerations or ability. (Testimony Bock.) The examination of the defendant von Schirach showed that the SA was unable to carry on military training.

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During the war more than one draft of an agreement was submitted according to which the SA should turn over to the Hitler youth (HJ) persons for training of youth in the military efficiency schooling camps similar to the SS and the police. Documents of USA Exhibit 867 establish that the SA leadership did not grant this request. As reason for this the defendant von Schirach states that the SA was not capable of doing this. The concepts of "Wehrmannschaften" and "SA-Wehrmannschaften" were confused by the prosecution. In the occupied territories the Wehrmannschaften constituted a consolidation of local civilian authorities which were generally only concerned with administration, but if the rear areas should become endangered they were to be organized for their own defense. Furthermore, the term "Wehrmannschaften" in the occupied territories also signified local inhabitants such as Lithuanians, Latvians, Estonians or White Ruthenians who also wanted to defend themselves against partisans.

However, the term SA-Wehrmannschaften signifies formation from the Reich area which were to organize, above all, the SA men dismissed from military service of the Army in order to preserve their military efficiency. They were to be a certain substitute for the former veterans organizations.

The English prosecution was kind enough to submit among their prosecution documents an article from the "SA Mann" from which it can be seen what is really to be understood by military training. Probably as a comparison to see whether the SA carried out military training it quotes these articles

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French, Russian, and Italian youth, but also that of the English Dominion youth, as well as that of the French youth. They indicate clearly that the supreme SA leadership did not carry on any such training.

The connecting link between the military training of the SA and aggressive warfare was supposed to be a series of articles on the so-called Lebensraum, which the English Prosecution has meanwhile withdrawn, since this series of articles does not indicate what it contends. The articles quoted by the English prosecution on the colonial problem mention only a peaceful winning back of the colonies. As the proceedings before the Commission have shown, these articles showed no signs of any war-mongering spirit. Therefore, the leap which the Prosecution makes in order to prove the bringing on of a war of agression by the SA is a leap into empty space. On the contrary, I have shown that the supreme SA leadership did everything possible to contribute to understanding among nations. This was shown clearly by the statements of the witness Obstlindober. I have also shown that at the Fuehrer schools of the SA only an ideological political training was given, but no military training. We see from affidavits that songs which might perhaps have indicated an aggressive tendency were prohibited by the supreme SA leadership. I have shown that individual SA men who tried to preach a war of vengeance were dismissed from the SA.

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Finally I have shown that the SA leadership made preparations for the Reich Party rally of 1939, which were contrary to possible war plans. We have also clarified this through the testimony of the witness Dr. Geyer, through the affidavits of Koch, and Zellenhoefer. Finally there came to our attention in the proceedings before the Commission an agreement between the SA and the Wehrmacht, which was to form a counter-balance to possible military agressive tendencies on the part of Hitler, Himmler and Goebbels. (Affidavit General SA, No.1),

The opinion of the Prosecution that the SA was founded in order to overthrow political opponents with terroristic methods and thus make the way clear for an aggressive war is completely misleading. He who knows political conditions and looks at them without propaganda-clouded glasses wonders how one can arrive at such an opinion. The officially ascertained weapon depots of the KPD and the unequivocal attitude of the KPD speak an unmistakable language. (SA Document No.287). What extent the political struggle of the KPD and the other leftist radical elements, which these organizations carried into the streets, assumed we can see from the testimony of the witness Bock before the Commission, who proved that the relief fund of the NSDAP had to be founded to care for the NSDAP victims resulting from the leftist radical terror. May I point out that it was the KPD that considered civil war, general strike, political mass strike necessary political fighting means, as indicated by the decision of the state court for the protection of the German republic,

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which I submitted the Tribunal in the Document Book (SA Doc.No.285). That this political terrorism was carried on within the framework of world revolution, is also shown by a decision rendered by the State Tribunal for the protection of the German republic. This the witness Juettner indicated when he referred to the idea of a defensive western pact directed against the endeavors to bring about a world revolution.It has been proved that this terrorism was,indeed, part of a world revolution.(SA-Document 286),in connection with which,according to their own admission,the Communist International and other agencies began revolutions in Finland, in Austria,in Hungary, in Bulgaria and in Syria. It may well be said,without fear of exaggeration,that without the Marxist theory of the class struggle and without the events which led up to it,the foundations would no doubt not have been created which required the protection of a spiritual movement by the SA.This is the view also taken by the witness Gisevius, when he testifies:"The SA has its origin in that post-war period, where revolution either still was, or began again to be rampant in Germany.One might say that it was one of the last after-effects of the Spartakus upheavals in 1918.Red pressure produced Brown counter-pressure,and the latter's external expression is called after that: The SA. The Prosecution, for their part,have submitted unequivocal documents of the "SA-Mann", which, although it was not official organ of the supreme SA-leadership,it nevertheless contains in this case irrefutable proof showing that terrorism was no doubt practiced by the Communist Party. I do not propose to quote these articles in detail.I merely want to refer to Prosecution Document 3050 PS,which,by the way, reproduces articles from the "SA-Mann" in a distorted way, and torn from their context.

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(Compare evidence given by Klehn and Bock before the Commission). The Prosecution also introduced documents taken from the "Associated Press", as was proved at the meeting of the Commission.

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in which the political struggle is described in connection with world revolutionary tendencies. I merely want to recall herethe article entitled "The Red Danger in the East", and the cartoon under the caption "Stalin wants world revolution, Budjenny is already smelling the roast". This article was introduced by the Prosecution. Finally,I want to draw the Tribunal's attention to the street fighting regulations issued by the Communist Party.

In contrast to this,I would like to mention the general order issued by the Supreme S.A.-Laedership, which prohibits weapons of any kind in the SA, and threatens to punish any infringement on this regulation with expulsion from the SA. I may also be allowed to refer,in this connection, to the evidence given by the witness, Dr.Kurt Wolf, who explained that this prohibition to carry arms was the reason why the number of victims among the SA people was so unproportionately high. The witness also said that the number of dead on the part of the National Socialist Party was higher than the corresponding figure of the Communist Party.he also explained that the members of the SA,unlike those belonging to the radical left, were invariably searched for arms by the responsible leaders. I may also refer in this connection to the affidavits given by Freund, Zoeberlein and Hahn. They represent the political situation as it really was, beyond any doubt. That before 1933 civil war was imminent, was clear from many of the testimonies. The excesses which actually occurred in 1933 find their explanation in this atmosphere of Civil War. This is also shown by the evidence of the former State Secretary Grauert. Herr Gisevius says about this period, as I explained in the SA Document 301, "looking back on these events,one may say without fear of making a mistake that this first phase of the revolution cost comparatively few victims."

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If we look at Document SA 302, he also admits that "fundamentally it was only a very small clique which rendered itself guilty of excesses." In his testimony before the Tribunal, he consequently excepted more than once the great mass of the SA. It was quite clear, also, from various testimonies that the Supreme SA Leadership intervened when ever excesses were brought to their knowledge. That this was actually the case, is clearly shown by the matter concerning VOGEL, and above all, by the testimony of the former police president HABENICHT on the camp near Wuppertal. In close cooperation between GRAUERT and the Supreme SA leadership, elements committing excesses were eliminated. Herr DIELS who is a Prosecution witness limits the number of those concerned in Berlin, in his affidavit on the SA, to the signal detachments which had grown out of Ernst Group Staff. On the other hand, we also know from the summary collection of affidavits that the notorious SA leader, who had the nickname "Schweinebacke", pig's cheek, was expelled from the SA for blackmailing a Jew, and sentenced to a long term of imprisonment. The testimony given by Burgstaller and Juettner make it clear that the SA did not adopt an extremists attitude in the racial question; because otherwise, it would have been impossible for baptized Jews to be admitted to the SA in Berlin, and that Jews were baptized in the presence of uniformed SA men. The testimony given by Diels shows that the SA of Berlin was not anti-Semitic.

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He emphasizes that anti-semitic propaganda was Dr. GOEBBELS' business. We have also Dr. MENGE's testimony according to which Jewish businesses at Hanover were protected by SA detachments, the Jewish shopkeepers supplying the members of the SA in return with purchase coupons (Affidavit General SA No. 1). We furthermore see from the summary collection of affidavits that in other cities as well houses and businesses of Jewish citizens were protected by SA members from looting. The witness JUETTNER told us that the attitude adopted by the supreme SA leadership in this matter coincided with that of the well-known Jewish Professor Karo who criticized the Eastern Jewry. These manifestations of hostility to Eastern Jewery are the consequences of the first World War, when innumerable Jews from Galicia infiltrated into Germany.

The events connected with the 9th of November 1938 are among the most essential incriminating points for the SA. The alleged report of the leader of the Kurpfalz Brigade plays an important part in this connection. It results from the circumstances in which this alleged report on the execution of instructions (1721-PS) was made that the whole document can only be a fake, and a bad one at that. To prove this we mentioned the witnesses LUCKE and FUST, who could not be transferred to Nuernberg in spite of the endeavors of the Secretary General extending over a period of several months, although the defense had indicated the camps where they are interned. In point of detail the following may be said:

1) It has never happened in the correspondence of the SA that a report on the execution of orders repeated the order in its substance;

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2) The order of the Fuehrer of the Kurpfalz Gruppe reads, according to the Prosecution. "By order of the Gruppenfuehrer". If an order had been given, it would have read: "It is ordered", or "The Gruppe orders"; in no case, however, can it be "By order of the Gruppenfuehrer".

3) The expression "Jewish Synagogues" does not exist in German. Nor does this expression "Jewish Synagogues" exist in official party intercourse. The term "Jewish" is embraced in the word "Synagogue". The term "Aryan" in this connection is likewise out of place. If the order were authentic, then in contradistinction to "Jews" at this point it would have spoken of "German compatriots".

4) "Riots and looting are to be avoided", it continues. The conditions in Germany in 1938 were such that no one, and certainly no Fuehrer of a Gruppe or a Brigade, would have thought of such disturbances, much less of using these words in an order in this connection.

5) " Report on completion of mission by 8:30 o'clock to the Brigadefuehrer or Local Office", it says in the ostensible order.

In no case does the Gruppe order a report on completion of mission to the Brigade, which is receiving the order, but only to the Gruppe. Logically, it should have said "to the Gruppenfuehrer".

6) It is equally improbable that the Fuehrer of the Brigade did not pass on the order or give orders to the Fuehrers of the Standarten on his own initiative, but only "Immediately informed the Standartenfuehrers and gave them exact information".

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Such romantic reports in the completion of mission never existed in the SA 7) It says in the report, "And execution was immediately begun". This formulation is also completely improbable. The Fuehrer of the Brigade reports in the preceding sentence that he immediately informed his Standartenfuehrers. It would then have been a matter of course, which no SA Fuehrer would have mentioned in his report on the completion of mission, that the carrying through - not the carrying out - of the order was immediately begun.

In the examination of the witness JUETTNER the Prosecution wanted to save the document by alleging that the stamps on the JUETTNER letter (1721 PS) and on the report to the Gruppe (1721PS) were identical. It was established, however, that written notations were by different persons.

This alone would not be conclusive if I did not have the affidavit of the Gruppenfuehrer of the Kurpfalz Gruppe, FUST, and the member of the Gruppe staff ZIMMERMANN, who was present at the time, which testify that such an order as the Prosecution contends was never given. If such an order was never given, then there can be no report on the completion of mission. But it is, in addition, proved on the basis of affidavits of the collective digest, that no order in the sense which the Prosecution contends was issued to the Standarten of Brigade 50.

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This we learn from the Standarten 115, 221, 186, 168, 145. All these standards were part of Brigade 50. None of them received such ominous orders as the prosecution has claimed. By the evidence given by the former Obergruppenfuehrer MAPPES, it has been proved that LUTZE issued counter orders against those of Dr. GOEBBELS. Thus it has been proved that the Supreme SA leadership prohibited the participation in the undertaking started by GOEBBELS. It has been proved that without any doubt that counter order reached the following groups: Ostpreussen, Mitte, Hochland Hessen, Niedersachsen.

(Affidavit General SS No. 71.)

As shown by the testimony SIEBEL, LUTZE prohibited, as a consequence of the happenings of November 9, 1938, the carrying out of future orders of the political leadership. He issued that order because he realized that various SA Storms or SA members had been abused at the occasion of November 9, 1938.

(Affidavit SA No. 80.)

If excesses should have occurred in which members of the SA participated, they render no tools for the sentencing of the SA as criminal. Since we have the counter order of LUTZE, those events do not find themselves within the frame-work of the SA.

From the sworn evidence of Edgar STOLZNER (Affidavit General SS No. 90), we learn that individual SA leaders detested those occurrences. By that many SA units kept their records clean. There are whole districts in which nothing took place.

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In the statistical collective summary of the affidavits, I have shown that the following synagogues have been protected by members of the SA, Bebra, Hoechstedt, Weilburg, Saubern, Grossumstadt, Bueckeburg. Furthermore, attempts to save the synagogues were made in Marburg, and in Giessen. It must be added that the largest part of the rural districts had neither synagogues nor Jews. In those districts no persecution of Jews was carried out. Therefore, the rural SA without further ado is to be excluded from this point of the indictment. It appears superfluous to me to emphasize that those excesses were rejected by the overwhelming majority of the SA members.

How the SA leadership considered the Jewish question will be learned from the differences we spoke about which the SA leadership had with the editors and the Eher publishing house in regard to those articles in the "SA Mann" when it opposed them but lacked the power to prevail. This position in regard to the Jewish question is completely clarified by the fact that in various groups the SA leadership had expressly prohibited the "Stuermer". This was the case, for instance, in the group Nordmark (Evidence Klaehn, and Juettner).

Particularly consistent is the position taken by the Supreme SA leadership in regard to the church question. The evidence given by Generalvikars Dr. DAVID, Pastor BURGSTALLER, and Konsistorialrates Dr. RATKE demonstrates that the prosecution charged the SA without justification with religious intolerance. The by far overwhelming majority of all SA members still belongs to one of the Christian churches.

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Protestant clergymen served in the ranks of the SA. For instance, the Bishop SASSE of Thuringia. From that one may conclude that the SA leadership did not exert any pressure to have people leave the church. This fact is unmistakably proved by many affidavits. I may recall that Cardinal Count GALEN was accompanied on his trips through the dioceses by SA members, and that in many territories an order had been issued prohibiting SA service during church times and in the neighborhood of churches; it is also a known fact that the SA held divine services in the field. In 1933 the SA furnished the guard of honor when the holy frock was exhibited in Trier (Testimony Dr. DAVIS). In the cross examination of the witness Dr. DAVIS, the defense has proved that in the famous case in Freising when the sermon of Cardinal FAULHABER was to be monitored, the SA leadership initiated proceedings to punish those who were guilty of those excesses.

In regard to the activity of the SA in the framework of the SA guard services or the police and assistant police troops, the prosecution mentions only a few cases. By that the SA is excluded even through the indictment of the charges of having had any connection with the large concentration camps of Auschwitz, Maidanek, Belsen, Dachau, and Buchenwald. In the case of VOGEL the guilty person was punished. The misunderstanding created by the affidavit SCHELLENBERG was cleared up by the affidavit GONTERMANN (Affidavit General SA No. 16). SCHELLENBERG in London confused the concentration camp and police service with the employment of the town and country guards.

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It is true that after January 1st, 1933, in a number of states various policemen and auxiliary policemen were employed for various purposes. They were taken from the ranks of the SA:

a) Because it was desirable to have a certain political proof of reliability;

b) Because among the many unemployed in the SA there were to be found candidates for the profession of policeman or the work of auxiliary policeman.

As far as the respective SA members selected a new occupation, for instance, that of the policeman, these were only men who actually carried out that vocation. As far as they worked as auxiliary policemen, which was the case frequently when they served on probation before being definitely employed as policemen, they were not any longer subordinate to the SA but to the competent police office. At times they still wore the SA uniform; but only because there were not enough uniforms; and therefore they wore an arm band "Auxiliary Police." They received an identification card issued by the police, the Landrat, or other authorities. For the duration of such employment, they received furloughs from the SA by which the SA externally separated itself from them and deprived itself of the possibility of issuing orders to them. In such cases the individual therefore never acted as SA man. The uniform which he kept wearing with the arm band was the sole exclusively external connection

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with the SA, which cannot alone prove decisive. This adoption of the uniform of organization for a purpose and service alien to the organization occured frequently in the SA und other organizations, for example as Wehrmacht affiliates or as Volkssturm. The arm band gave the uniform, or even civilian clothing according to recognized international law, the sole mark of the new service deviating from the original purpose of the SA.

The charges against the SA, in connection with concentration camp, police, and auxiliary police service, can deal only with such purely superficial matters, which can be unjustly charged against the SA only on the basis of the uniform. For the orders were issued not by the SA leadership but by the state.

The Prosecution tried to refute this argument in the cross-examination of Juettner by introducing documents which were to prove that the SA had participated in the atrocities in the occupied territories and in the concentration camps and forced labor camps.

They did not succeed in this.

It was clearly established that the supreme SA Leadership was forbidden to set up SA units in the so-called Reichskommissariat Ostland, that is, Lithuania, Latvia, and Estonia. The Prosecution is confusing here the SA Gruppe Ostland which was set up in East Prussia with the later Reichskommissariat Ostland. Moreover, the Prosecution has already charged another organization with the Schaulen, Kovno, and Vilna cases. District Commissars, Provincial Commissars, and officials of the Reichskommissariat Ostland.

were no more under the supreme SA leadership than the SA Obergruppenfuehrers, Killinger and Kasche, who were engaged as ministers. The defendant Ribbentrop has explained this clearly. The affidavit of the defendant Frank has solved the Ilkenau case in favor of the SA.

A special role in the cross-examination of Juettner was played by the so-called abuse of justice, which Sir David emphasized. It is not the affair of the SA but rather of the competent ministers.

Moreover there came to the fore the case of the Concentration Camp Hohenstein. In re-examination it could be proved that this concentration camp was not a concentration camp for political opponents alone. Old political fighters were inmates of it. Moreover the affair of the Concentration Camp Hohenstein came to be prosecuted by the officials of the Ministry of Justice through information supplied by SA Obergruppenfuehrer Killinger, when he was still in charge of the SA Gruppe Sachsen; it is a curious thing to charge the SA with cases that they themselves reported for punishment. It is interesting in this connection that the Prosecution submitted an incomplete document in which the letters of Lutze and Hess are lacking, from which the SA defense might have been able to derive something favorable according to the information which it received.

In order to be able to prove the criminal character of the SA, the Prosecution obtained affidavits from former political opponents of the NSDAP; among them are the affidavits of the Minister President Dr. Hoegner, and Advocate General Dr. Staff von Braunschweig. They were deposed on order of the Military-Government, as can be seen from the affidavit of Dr. Staff. The two latter ones were submitted by the Defense. It has already been established before the Court that Dr. Hoegner was frequently mistaken. His description of the March on Coburg completely wrong.

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In reality, things happened in the following way as testified by Witness Juettner and the affidavit of Zoeberlein (Affidavit General SA, Number 21):

A German association, the "Schutz-und Trutzbund" was obliged by the Town Administration to hold a closed session. The NSDAP stressed the right of freedom of assembly which was guaranteed to all by the constitution. Therefore, a protective group went to Coburg. When leaving the railroad station, it was attacked on the street by members of Leftist organizations who were equipped with lead tubes, nails, wooden boards, etc. Above all, it has been proven, too, that the observations of Dr. Hoegner that the SA was trained by the Reichswehr were incorrect. The Munich Reichswehr General von Lossow frustrated the success of the Hitler Putsch. As Witness Juettner has testified, the collections of arms which had been opened with the permission of the Inter-allied Commission were open to all other organizations with the exception of the SA. It ist equally wrong when it was contended that Ludendorff was chosen to unleash a national war against France at a time when Communist outbreaks were raging in Saxonia and when Ludendorff hat tried already in 1921 to reach an understanding with France which led around the end of 1923 to the so-called Foch Plan. Dr. Hoegner claimed that the SA had had a share in the persecution of the Jews while the witness of the prosecution, Diels, stressed that the SA was not anti-semitic. Dr. Hoegner puts himself also in contrast to Pastor Burgstaller who had emphasized the indifference of the SA in racial matters. Without any qualification, it can be admitted

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that excesses did occur when the "Munich Post" was occupied. But such things occur during any revolution; we should only remember some of the things that happened between 1918 and 1920.

How the situation actually was, objectively see, is shown by the affidavit of Dr. STAFF, Braunschweig. There it is stated; the SA behaved in a manner which from the legal standpoint of a civilized nation must be called illegal, but it did not result in any excesses going beyond those legal measure.

I submitted also an affidavit of Dr.PRIOSO as Number General SA 82. It shows that Dr.PRIOSO as a member of the Communist Party of Germany is active as an expert of the denazification court, and that he testified with the approval of the Minister for political clearance. His judgment says that the SA could not be considered a criminal organization in the sense of Article VI of the Charter.

By the mass [illegible]tment of members into the SA after January 30, 1933, the so-called unifor[illegible]t of the NSDAP broke into pieces even more than it had been the case before that date. Part of the German populace entered the SA who had nothing to do with the aims and purposes of the SA.

The affidavit of Diels shows that for instance in the Berlin SA, Communists were incorporated in large numbers.

The collection of affidavits shows that this was also the case in other cities. It is also necessary in this connection to refer to the incorporation of all evangelical youth organizations in the HITLER Youth in 1933, which were later transferred to the SA. Generalvikar Dr. DAVID declared that this was also the case among many of the Catholic youth. The idea which leading personalities had in their minds when this transfer was made become clear from the quotation from the Akademischen Monatsblaetter of June 1933 (SA-317), which reads as follows: "Having recognized this it is up to us to take a hand in order to create new and better things and to prevent the worst, in common honest work with all constructive forces of our nation, and with a sincere conviction. For this reason we want to place all our Catholic property of Christian conservative ideas and our Christian evolutionary forces into the new Germany to help in the formation and deepening of its spirit from our spirit.

If the SA were to be condemned its definition as a criminal organization would also involve on these men who were not in the least concerned with the spirit of the National Socialist Party, and many of whom were to act as a brake against the extremists of the movement."

The greatest number of men joined the SA as a consequence of the transfer to the SA of the Stahlhelm according to orders that were given to this effect. The original so-called Tradition-SA had

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had only 300,000 members as was stated some time ago. The Stahlhelm, on the other hand, comprised more than one million members who distinguished themselves considerably from the SA men of the fighting period both as regards their general attitude and their conception of life.

At the court session of February 28 - March 2, 1946, the prosecution moved to except among others, the SA reserve from the declaration of criminality.

By an order of the supreme SA leadership (HITLER) dated November 6, 1933, the SA-Reserve 1 was formed from members of the Stahlhelm between 36 to 45 years of age. The SA-Reserve was subsequently placed unter the command of SA-Gruppenfuehrer in accordance with a directive issued by the same authority on January 25, 1934. It was transferred to the SA under the designation SA-Reserve No.1 (Exhibits No.13 and 17 of the Document Book Stahlhelm-SA). Part of the SA-Reserve 1 was maintained up to the end of the war and has thus been excluded from the declaration of criminality. A further part of this SA-Reserve was attached in the shape of small reserve groups to active SA-Stuerme in the course of the last few years. The remainder was gradually incorporated in the active SA after 1934. Such re-groupings were carried through either in accordance with lists or under specially issued orders. The reasons for these transfers were partly technical considerations, like local re-groupings, above all during the war, when SA-Stuerme shrank as a consequence of inductions of their members into the Armed Forces. In many cases these re-groupings were also made in order to improve control within the SA. It would thus be unfair and incomprehensible to give this latter group a different treatment than the former, to make coincidence the judge over the fate of the members of the Stahlhelm who remained in the SA up to the end of the war.

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Those members of the Stahlhelm transferred into the SA by order of HITLER in 1933-1934 were transferred to the SA cumulatively. For that reason alone and according to the decision of the Tribunal on the 13th of March, 1946, under 6-a 2, and 6-b, they cannot be declared criminal. With reference to this I draw your attention to the plea of Attorney KLEFISCH on the 15th of August, 1946.

It is explained therein thatthose persons who had reached an organization involuntarily belonged to the circle of guiltless followers and that it is to be assumed of them that they did not desire to support the aims and activities of the organization. The accusation of guilt cannot apply to them, therefore, even if an early resignation of their membership had been possible for them.

The above-mentioned transfer took place as follows: On the 27th of April, 1933, the entire Stahlhelm was placed under HITLER's orders by the leader of the organization, SELDTE. On the 21st of June, 1933, the Jungstahlhelm and on the 4th of July, 1933, the entire Stahlhelm was subordinated to the Supreme Command of the SA by order of HITLER. According to the decree of the 4th of July, 1933, the Jungstahlhelm and the Sports Units, later called Wehrstahlhelm, i.e., Stahlhelm members up to the age of 35 years, were included in the active SA (Exhibits 1, 6, 7). The transfer of the original Stahlhelm, i.e., members of the ages of 36 to 45 years, took place as I have mentioned on the 25th of January, 1934. This transfer and inclusion both in the case of the Wehrstahlhelm as the original Stahlhelm took place without the members' being asked partly through announcing the orders on parade, partly by handing over nominal roles and partly by delivery of pre-dated membership books of the SA. This is proved by the affidavits which I have presented and the testimony of Von WALDENFELS HAUFFE, and GRUSS.

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The instructions issued by HITLER after the 1st of December, 1933, (the law regarding the uniformity of the State and the Party) are without doubt to be regarded as lawful instructions. The preceding orders and instructions in practice have a similar character and were sanctioned by the law of the 1st of December, 1933, as well as later instructions and executive orders.

The transfer of the Stahlhelm did not take place without friction. In the case of many members there was the picture of coercion. Large circles of the organization did not agree with the subordination of the Stahlhelm or the cooperation of the Stahlhelm in the seizure of power. DUESTERBERG objected particularly, who must be regarded as the head of the opposition to SELDTE's policy. His arrest was the result of the attitude he adopted as well as were numerous arrests of Stahlhelm members carried out by the State Police in the spring of 1933, particularly in Brunswick.

Members of the Stahlhelm who did not obey the order for the transfer were forced by organs of the State to do duty and were occasionally punished (Affidavit 1, 3, 2, and testimony HAUFFE, V. WALDENFELS).

Just as the SA disintegrated because of the event before and after 1933 through the influx of people with the greatest variety of aims, so this also applies to the Stahlhelm because of the events of the year of 1933, which had such serious and dreadful consequences for the German people. The Stahlhelm disintegrated.

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For some of its members it had been of importance that at the time of the transfer they had been expressly assured of a certain amount of independence under their own leaders and with their existing uniforms, as well as further connection with the Stahlhelmbund. This is shown by nearly all documents, affidavits and testimonies. When these assurances were not put into practice the resistance of the opposition group against SELDTE increased. The national socialist leaders of the State considered this group to be politically unreliable and reactionary.

This also is confirmed by affidavits and the testimony of witnesses, and particularly the newspaper reports which I have submitted which represent only a small portion of similar reports. Evidence: Exhibit 32, 33, 35, 36, 37, 39, 40, 48, 51, 53, 54, 55. In the National Socialist paper Rheinfront the statement appeared on the 27th of July 1935 "in its innermost character the Stahlhelm was never National Socialist". Another paper wrote on the 30th of July 1935, "With certainty the Stahlhelm could always be found wherever there the opponents of the movement".

Another newspaper on the 8th of August 1935 described the Stahlhelm as the "boiling pot of oppositional and reactionary forces".

It should be noted that the majority of the members of the Stahlhelm transferred to the SA retained their membership in the Stahlhelmbund or the later so-called NSDFB. According to the decrees of 14 July 1933 and 27 January 1934 (Exhibit No. 8 and 18) members, transferred to the SA, were expressly permitted

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this dual membership. Finally, I draw your attention to Exhibit No.21. According to this the Press Department of the supreme SA command announces on the 25th of April 1934:

"That members of the former Stahlhelmbund, who have already been put on the strength of the SA-Reserve are not at present allowed to be taken off the strength of SA-Reserve I."

A large number of the members of the Stahlhelm represented a body within the SA, drawn together by common ideals, who regarded the events of the time with the greatest distrust. Opposed to them there was a group of Stahlhelm members and former Stahlhelm leaders, headed by Labor Minister SELDTE, who affirmed the national revolution and who had furnished sixty high and higher SA leaders, but who nevertheless disavowed perpetrations and excesses in the severest possible manner. Two spokemen of those two Stahlhelm groups have been heard before this Tribunal, namely, the witnesses GRUSS and JUETTNER. One witness stood in the midst of the SA, the other was not an SA member. One member of the Stahlhelm affirms the SA which he knows intimately, the other placed outside the SA, regards it with a negative attitude. The latter is the exponent of that section of the Stahlhelm which, until the end of the Third Reich Had toyed with oppositional thoughts.

It can be said, without doubt,

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that the Stahlhelm can be considered an element of opposition to the so-called "Old Fighters" of the SA. The above mentioned affidavits, Exhibits and testimony are irrefutable proof of this.

The Stahlhelm members took their ideology into the SA which, in its important points, differs from national socialism. Politically speaking majority of them disagreed with the totalitarian claims of any political party and the Fuehrer principle. As before they remained in constant touch with their own Bund which, until its being dissolved in 1935, continued to exist under the name of the NSDFB (Stahlhelm). Even after it was dissolved homogeneous groups formed themselves who held together firmly and had meetings of comradeship all over Germany. In many of those groups the hope of a political reaction continued to live for a long time.

As in other sections of the SA former opponents of National Socialism particularly Marxists, joined the ranks of the Stahlhelm. So, for instance, the Stahlhelm at Brunswick joined the Reichsbanner (D-947).

The insufficient camouflage of the activities of the Reichsbanner men caused its being dissolved.

Those members transferred from the Stahlhelm to the SA, like SA members, adopted a negative attitude regarding the commission of crimes under Article 6. As ex-servicemen they disliked war, most of all, aggressiv war.

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The negative attitude adopted toward HIMMLER's racial policy finds its clearest expression in the nomination of second bund leader DUESTERBERG as candidate for the Reich presidential elections in 1932 and his extraordinary popularity with all Stahlhelm members. Nearly all affidavits and testimony furnish evidence to the effect that the Stahlhelm was far removed from the crimes against humanity.

Considering the transfer of the Stahlhelm it must be taken into consideration that it took place at a time when there were arguments with, and a weakening of, the SA, and at a time when the task of the SA connected with the seizure of power had already been completed, and not at a time when HUGENBERG, SCHACHT and HITLER had formed the so-called Harzburg front. The completion of this transfer to the SA took place at a time when the SA was totally without significance.

May I finally remark, with reference to the subject of the Stahlhelm, that based on coercion, i.e., an order, 500,000 members of the Wehrstahlhelm, and approximately 500,000 members of the Kornstahlhelm were transferred. There remained a further half million of Stahlhelm members over 45 years of age who did not reach the SA at all because an order for this transfer was lacking. Only in very few districts were these older-age groups also transferred to the SA because of independent orders issued by subordinate SA agencies.

Another group occupying a special position in the SA is the Mounted SA, the so-called NS Reiterkorps.

In accordance with the definite results of the taking of evidence the NS-Reiterkorps possessed, during the period of its existence, far-reaching organizational independence. The aims, purposes and activities of the NS-Reiterkorps were not political, but were limited to athletics with horses, the breeding of horses, and the care of horses.

During the elaborate taking of evidence before the Commission, the prosecution did not succeed in showing the participation of the NS-Reiterkorps in any crimes against peace or humanity.

Since the evidence speaks so clearly in favor of the NS-Reiterkorps, I limit myself to summarizing the essential points before the Tribunal.

The charge directed against the SA to have participated in the seizure of power by the NSDAP does not concern the NS-Reiterkorps at all because it was created only after the seizure of power. The NS-Reiterkorps did not grow out of the storm troops of Adolf HITLER, but out of hundreds of so-called rural rider associations, which were popular throughout all Germany up to 1933 as entirely unpolitical athletics and breeding associations. When the rural rider associations were incorporated into the SA after the seizure of power in the course of the so-called "coordination", this was not done voluntarily.

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It was carried out in accordance with decrees of the authorities against the inner resistance of most members of those associations. That decree by the authorities resulted from negotiations between the Chief of the rural rider associations and the Chief of Staff of the SA, which took place upon request of the Reichministry of the Interior in the summer of 1933. Those rider associations which resisted the decree were threatened by dissolution and if they actually did resist, were dissolved as a matter of fact.

Since those associations constituted an agricultural necessity, most of the associations obeyed the decree under the compulsion of circumstances.

Even after the absorption of the NS-Reiterkorps by the SA it retained until the very end its independent character of an organization. The former rider associations which now called themselves SA rider storms formed jointly the NS-Reiterkorps, headed by the so-called Reich Inspector fuer das Reit- und Fahrwesen, LITZMANN, in Berlin.

As far as the size and composition of the NS-Reiterkorps are concerned the taking of evidence has shown that it counted approximately 200,000 members. Eighty to ninety per cent of them are farmers who hold horses. After the seizure of power in many cities the riders clubs joined the NS-Reiterkorps, clubs which had up to then, led an entirely unpolitical existence devoted only to sports.

The activity of the NS-Reiterkorps was in accordance with its athletic and breeding tasks. Service consisted in riding and driving

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and the training in those fields of knowledge relating to horses. In the center of activities stood for the units in towns, the carrying through of hunting and of tournaments as they are staged by riders clubs everywhere in the world.

As a rule riding was done not in uniform, but in civilian clothes. The wives and children of the members participated in it. In rural areas the activity limited itself mainly in training the farmers in regard to all problems important to the horse, as driving and the medical treatment of ill horses. Therefore, the members of the NS-Reiterkorps considered themselves everywhere in Germany first of all, as riders, and not as SA men.

Conscientiously the NS-Reiterkorps refrained from giving any political support. It did not spread political propaganda nor give any political training. It never was a political fighting group.

There were in the NS-Reiterkorps practically no "old fighters". Political fanatics and activists were not tolerated but eliminated. Decisive for the position of leaders and the promotion in the NS-Reiterkorps was not political activism but exclusively the capabilities as rider and the noble character.

The taking of evidence has clearly shown that the Reiterkorps in no way participated in any crimes against humanity. It did not have a share either in the excesses against churches, Jews, labor unions, foreign laborers, or prisoners of war. No, members of the NS-Reiterkorps have even in many cases, taken an active part in favor of those who were politically persecuted.

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As the presentation of evidence has shown, the NS-Riding-Corps had no anti-Semitic attitude. In the country close business relations with the Jewish horse-traders existed for a long time after 1933. The NS-Riding-Corps was always religious-minded. It is a significant fact that the non-Aryan Fuldauer, as is shown by his affidavit (No.20), was a co-founde of the NS-Riding-Corps at Wiehl/Rhineland, and that he belonged to the Riding-Corps there for quite a long time after the seizure of power as a leading member.. The Jewish direction of the firm Tietz in Cologne even granted prices for SA-Riding-Tournaments to the NS-Riding-Corps in view of the existing good relations.

Since the NS-Riding-Corps stood aside from the party, it even became a haven for the politically persecuted in many areas of Germany. Numerous freemasons, non-Aryans were members of the NS-Riding-Corps, and tried to protect themselves by pointing out their membership in a NS-organization. Under these circumstances it is not surprising that the NSDAP, as has been shown by the presentation of evidence, regarded the NS-Riding-Corps with the utmost suspicion. Members of the NS-Riding-Corps were refused membership in the NSDAP because their activity in the NS-Riding-Corps did not give proof of their political reliability.

The results of the presentation of evidence clearly show that the NS-Riding-Corps did not participate even in a crime against the PEACE.

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According to the claims of the Prosecution Hitler is to have ordered the Riding-SA to secure riders from the new generation for the German armed forces. The Prosecution supports itself here above all on certain propaganda material which has appeared by an unknown author in the journa "Der SA-Fuehrer". All witnesses who have been heard with regard to the Riding Corps have testified that the contents of/the editorials were in glaring contrast to the actual conditions. It has been repeatedly determined in the course of these proceedings that the party-leadership permitt itself to be directed solely by propagandistic viewpoints. The Prosecuti has not succeeded in showing even one actual case where the NS-Riding Corps in more than 10 years of its existence has ever planned or carri out any activity, which can be considered as a preparation or support for an aggressive war.

The highest head of the German cavalry in the time prior to the outbreak of World War II, the well-known Lieutenant General (Generaloberst) Guderian, has taken an unequivocal stand on this question.

I quote:

"No military collaboration existed between the German armed forces and th NS-Riding Corps, neither in a tactical nor a strategical respect. The cavalry of the armed forces trained the next generation of riders itself and was not dependent on the collaboration of the NS-Riding Corps.

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Relations to the NS-Riding Corps in this direction were neither sought for nor engaged in by the armed forces....."

(End of quotation).

Lieutenant-General (Generaloberst) GUDERIAN gives the convincing reason in this connection:

I quote:

"Whereas in 1935 18 cavalry regiments were still in existence, only 1 cavalry brigade existed at the outbreak of war which later in the course of the war was increased to a cavalry division. The armored force had taken the place of the cavalry, already expressed by the fact that 40% of the armored officers came from former cavalry-regiments. In view of this development an incorporation of units of the NS-Riding Corps into the armed forces was not intended, nor did it ever take place".

(End of citation)

But also within the Riding-Corps no training of any kind for military tasks was practiced. As no time and in no part of Germany were cavalry maneuvers ever carried out by the Riding-Corps in the sense of the Cavalry of the armed forces. The activity was rather limited to the breeding of horses, important for the peasants, and the riding-sport which is practiced in all countries of the earth.

Nor can the charge be maintained with regard to the so-called Riding-Certificate. According to its text, the Riding-Certificate gave its owner the right to be allowed to serve with a mounted unit in the army. This Riding-Certificate, however, could be obtained by any

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sportsman, even if he was not a member of the NS-Riding Corps. This corresponded to the comprehensible wish of every passionate rider to be assigned to a mounted unit in case he is conscripted for service in the army, just as an enthusiastic mountain-climber or ski-driver will give his first preference for his service in the army to the mountain-units. In practice, however, this wish was considered by the armed forces only in the rarest occasions because the armed forces, after all, were almost completely deactivating their cavalry since 1933. Therefore, most of the holders of Riding Certificates were in reality assigned to infantry or motorized units at the time of their induction.

Furthermore, obtaining the Riding-Certificate was not the aim of the sports-activity of members of the NS-Riding Corps, but obtaining the Riding-Badge which was worn by every rider with pride. This badge has been submitted to the Tribunal in its original form and it probably is the only insignia of a NS-unit without the swastika.

The militaristic spirit was not nurtured in the NS-Riding Corps. The large mass of the NS-Riding Corps consisted of peasants. It is well-known that the peasant by nature is not a friend of war. The urban units of the Riding-Corps engaged in close international relations with all countries practicing the riding-sport until the outbreak of war.

Numerous foreigners, partly in official positions, were constant guests of the NS-Riding Corps. At the outbreak of war general consternation reigned.

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Dr. BOEHM (Page 57 of original)

As regards the character of the General SA, the members of the National Socialist Riders' Corps (NS-Reiterkorps) were of the opinion that the SA, to which the NS Riders' Corps was not attached until after 1933, had no criminal character. In so far as excesses occurred within the General SA, the members of the NS-Riders' Corps must have perceived that these excesses by individuals were not in accordance with the program of the SA and they heard with satisfaction that the SA-Leadership disavowed these questions and tried to avoid repetitions.

It is also pointed out that not one of the chief defendants was ever in any kind of relationship with the NS-Riders' Corps. No member of the NS-Riders' Corps played a leading political part during the National Socialist regime.

Justice demands the exoneration of the NS-Riders' Corps of the charges raised, for the mere reason that both of the other large sports organizations of the Party, the National Socialist Motor Corps and the National Socialist Flying Corps, were justly not indicted, because of their sporting aims. Thanks to the political influence of their leaders in particular the NS Motor Corps and the NS Flying Corps succeeded in achieving complete independence from the SA. During the whole period of its existence the NS Riders' Corps also strove to obtain this complete independence, but attained it only in part. In its leadership it remained under the command of the SA. No complete independence was given to the NS Riders' Corps for the reason that the Party leadership did not consider it politically reliable.

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A condemnation of the NS rid corps would under these circumstances seem to be a grave injustice, quite apart of the fact that the reproach of preparing for a modern war should rather apply to those who were trained in motor vehicle driving or airplane flying than to those who devoted themselves to horse driving and breeding.

A further group within the SA which had still less to do with political aims than the SA riders is represented by so-called sanitary units.

In the establishment of these the pressure of legal compulsion made itself strongly felt. Legal compulsion means that, based on the provisions of a law there exist decrees or statutes making service in an organization, for instance in the SA, compulsory. It applies to the greater portion of the so-called SA doctors. This is seen from the statement in lieu of oath of DR.CARRIE (Affidavit general SA No.74). In his affidavit it is stated that when the doctors refused service in these units, they were dismissed from the municipal services.

Moreover, who can find anything criminal in their activity? Their task consisted in training for first aid in case of accidents, in installation of medical aid stations and in sanitary service in case of catastrophies, as well as attending sports events.

The entrance of a doctor into the SA occurred in his capacity of doctor, mostly with the rank of Sturmbannfuehrer, or at least that of Obertruppenfuehrer. The doctors in the SA were, up to the Groups, active in all the offices of the SA in an honorary capacity. As time went on a "Sanitaetssturm" was established in every SA "Standarte" which on the average comprised 100 members.

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From the ranks of the medical units trained SA medical men were, in general, continuously dispatched to the individual SA units. It was practically arranged for each unit to have about 4 - 5 SA medical men. The training of the SA medical men was conducted by physicians within the framework of the Geneva Convention. Part of the medical men were even trained directly by the Red Cross. The duties of the medical personnel corresponded to a large extent to the duties of the Red Cross.

The declaration in lieu of oath of Dr. MENGE, Hanover, states that a great number of water-sport-c[illegible] were taken over by order of the SA naval-SA stormtroops. These naval-SA-units differed from other SA units in that hardly an old fighter was found in their ranks. They are altogether an organization set up after the year 1933. Their duty consists exclusively in a water-sport activity. The compulsory joining of the SA was also due for the frontier protecting units, as we can see from the collection of declarations in lieu of oath. Here we see that we are dealing with a part of the SA which belonged to them only formally and for other than usual reasons. I may underline that it was a matter of joining the frontier protecting units, set up in the fall of 1931 under BRUENING and SEVERIN, which was compulsorily incorporated into the SA in the fall of 1933. I may also point out, that the duties of the so-called Reich Board of Guardians for Youth Education founded in 1932 went over to the sphere of the SA. In this Reich Board of Guardians for Youth Education there was a Chief of the Training Section, which is also found in the SA. To his sphere belong the so-called AA-tasks,

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the so-called frontier protectin tasks. These AA - tasks are mentioned in a document of the Prosecution. Thus, an absolute evidence is furnished of the incorporation of the frontier protecting stormtroops into the SA in 1933.

I have offered in my document book under SA document 218 an order of the Supreme SA-Leader of 7 October 1933. It shows that the Reich Minister of the Interior decreed with Law Br. I. A 5400/26.9. of 3 October 1933 that the emergency engineer service of the Technical Emergency Service was to be transferred to the SA.

The transferred emergency engineer units supplied predominantly the personnel for the SA Engineer Stormtroops. It is therefore natural for these units to be used in catastrophes as they came from the Technical Emergency Service.

A predominant part of SA members who came to the SA after 1933, i.e. members of the upper classes of the Secondary Schools, official candidates and also members from industrial works and craft-trades, went into the SA not out of their own free will but by reason of orders, decrees and regulations. Not even the Prosecution's subtle but not pertinent interpretation of the indictment can change that. The students, for example, served with the SA University Office after they had become members of the local SA stormtroops. All these people could not vote before 1933. The election of March 1933 determined their evolution. They can, in no way, made for this responsible.

They were born into this time, they are the victims of this time. They are the victims of the election of March 1933, which was carried out by the older generation. They believed they served the State which was recognized by the International World. The greater part of those young men were at the front. A large part sacrificed health and life for the so-called Third Reich, which demanded every thing of them. In the beli in their duty, in the belief that they were fulfilling their tasks, the marched out. Deceived and disappointed a part of them returned home af the World War. And now they must be stamped as criminals by the indict ment against the Organizations. In my collection of documents I have submitted a large number of decrees and regulations which exhibit the principle for the entry of these young people into the Organizations. I need not enumerate them separately, they are known to the Tribunal. Should these people now be punished because they fulfilled the duties and obeyed the Laws, regulations and statutes which were imposed on the From this youth which was absorbed in these organizations came the fi against the Nationalist-Socialist state.

I will show you an example:

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The case of SCHOLL, who rebelled against the compulsion by this State. This youth was born at a time when the first world war inflicted its wounds upon the European countries.

This youth suffered most from the consequences of the unfortunate development which shortsighted men created in Versailles. This youth suffered because of this problem which the bulk of the German Nation, as well as the Supreme SA Leadership, always wanted to solve by peaceful means. The witness GISEVIUS also recognized this clearly, He stated that in the years until 1938 no other mood could prevail among the masses of SA than in the masses of the German people. And this mood undoubtedly was that the very thought of war was a piece of insanity. He also stated that the assumption that the SA participated in war crimes must likewise be denied.

This Treaty of Versailles and the chief postwar events: the blockade of the Republic and its battle against communism; the currency inflation, the ruin of the middle classes, unemployment, civil warfare, party armies, Parliamentary chaos, laid the foundation for the young generation and for its development.

All of this should not be forgotten when passing judgment on the fate of the young generation within such organizations who did not vote for HITLER

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It is deplorable that this group-structure of SA after 30 January 1933 could not be demonstrated to the High Tribunal through statistics. These statistical data are lacking because of the absence of approved witnesses. However, I can give a rather acurate record of the formations to the Tribunal which is necessary so that it may have a clear picture of the SA. This record is covered by the summary of collective declarations in lieu of oath.

As previously mentioned, the traditional SA had on 30 January 1933

300,000 members.

The Stahlhelm (Steelhelmet) was incorporated upon order as follows:

with the first batch come	550,000 "
" " second " "	450,000 "
	into SA.

In line with orders the following were transferred:

Rider's Country Clubs with	200,000 "
Watersport clubs with	50,000 "
Frontier guerd units with	100,000 "
Auxiliary Engineers' units of the technical Energency Service	50,000 "

On orders were also added: Medical Aid Associations and other Red Cross Formations;

On the strength of Government decrees: medical doctors were transferred to the SA Medical Aid Service 60,000 "

Also on orders the Kyffhaeuser Society with 1,500,000 "

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Incorporated were university students and students of technical high schools, by virtue of legal decree	100,000	members
Students of technical and secondary schools - by virtue of decree of 9 September 1933 - and Religious Youth Societies by virtue of order - joined SA with	150,000	"
On orders Brigade Erhard was added with	150,000	"
Aviationsports Society Oberland and Frontbann (subdivision)	200,000	"
Incorporated were civil servants, primarily men of the rising generation, by virtue of Government decree with	200,000	"
The Honorary Leaders and Z.V. Leaders (leaders for emergency calss) of SA	20,000	"
Additional increases to SA	420,000	"
Of the 420,000 men 200,000 came from organizations of the Left parties, e.g. Red Front and Reichsbanner.		
This brings the total membership up to	4,500,000	"
Withdrawals in 1934, immediately after 30 June 1934, were as follows:		
Kyffhaeuser Society	1,500,000	"
NSKK (National Socialist Motor Corps)	450,000	"
SS	250,000	"
Political Leaders	150,000	"

From 1934 until the time when the number of the members had reached 1½ millions there resigned:

war casualties and disabled men	350.000	members
as a consequences of legal proceedings	40.000	"
by transfer to other organizations	260.000	"
Thus number of members reached	1.500.000	"

Within the next few years a great change in membership took place. Part of the members dropped out by death and illness. These were replaced by the rising generation. They came mostly from the Reich-Finance-Scho (14 schools) with about 50.000 members, as well as from students and newcomers among the officials, who were legally bound to serve in an organization, from the Hitler Youth, whence they were transferred to the SA. The conclusion of evidence of 13 March 1946, Paragraph 6 A, Figure 2, emphasises that it would be of importance whether the membership of the SA was generally a voluntary one or a result of a legal decree. The tenor of the speech proves clearly that there could not be a question of a voluntary membership of the SA in general, but that it is mostly a membership on the basis of an order or under legal pressure.

The bulk of the masses were thus incorporated as such on the basis of administrative decrees or on Hitler's orders,

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which according to the law concerning the unity of State and Party are legal decrees or have legal character. A condemnation therefore of the S as a collective organization is not possible, as there is the lack of a uniform aim.

If we picture the time after 1933, we recognise, that the third Reich wa a National Police state. From the affidavits of many convicted members the Stahlhelm, it can be seen that the attempts to resign from the SA were already in 1933 and 1934 considered by the State Agencies as the expression of an anti-national attitude, unless the resignation was explained by very weighty reasons such as grave illness. Only health reasons were recognized. In this connection the decree SA 222 of the Re and Prussian Minister of the Interior is characteristic, in which it say "in every case an investigation is to be made as to the reasons for the resignation of the official from the Party. If he did this because he disapproved of the program or the political tendency, he could not remai an official. But even if this supposition is not realized, the resignati of an employee from the Party can, on account of the close relationship between Party and State, lead to the conclusion that the employee lacks the close alliance with the National-Socialist State or the necessary willingness for sacrifice."

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If we consider SA-document 221, we read the disposition saying that it is impossible for one to leave the SA after having been sworn in on the Fuehrer as one would any other association, and only a physical disability or another employment would permit one to resign from the SA. Other reasons only leaves the one possibility: exclusion. The circular decree of the Reich and Prussian Ministry of the Interior admits in theory, although the exclusion from the Party and its organizations is designated as a severe punishment, that the possibility that the man in question with his wife and children might be deprived of work and bread. That this regulation has already been effectively practiced before appears from a judgment of the provincial labor tribunal of Bielefeld to the effect that in case of exclusion from the SA, the employer was not authorized to continue to give work. (SA-document 220). It is not surprising that in the National Socialist State regulations were carried out before they were put into force.

In the official commentary of PFUNDTNER-NEUBERT it is said concerning the decree of 28 Feb 1939:

"This sort of legal new order corresponds to the principles of National Socialist State leadership. It is not like the procedure of the system state(Systemstaat) which first issued high-sounding laws, but could not execute them because the presuppositions hereto were lacking, aside from the fact that the government organs were to weak to do so, but the government of the Third Reich first creates

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the positive necessary circumstances for the execution of a government measure and then issues the corresponding law."

Moreover, may I refer to the affidavits 1,2,3,4 of the Stahlhelm, to the testimony of the witness Hauffe, v. Waldenfels, also to the affidavits of the SA Nos 61 and 81 which stress the impossibility of leaving.

Leaving the organization on other grounds than those of health meant exclusion. The consequences of this exclusion were, in addition to an automatic police supervision, endangering or losing one's economic position or profession, especially in the case of officials and employees, or the economic boycott and the danger of imprisonment on account of political unreliability. So-called political reliability was the indespensable assumption for every profession, which was obtainable only within the organization and from which the administration was not inclined to depart with regard to alleged or actually existing professional confirmation or family relations.

Political reliability was demanded by the Third Reich. Therefore, it demanded by regulations service in the organization. If one excluded oneself, then it meant that which was written in the affidavit No. 81:

"It was known in wide circles that a refusal to obey regulations of the state and of the Party led to the supervision of one's activity since it meant excluding oneself from the service for the racial community (Volksgemeinschaft)

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Moreover there was no reason to refuse to work for the national community, as criminal aims, methods and activities of amy kind were unknown. This appears clearly from the collection of 17089 depostions in lieu of oath.

Moreover the retaining of membership by enrolled persons on the basis of an order or legal coercion cannot constitute a legal charge if their compulsory enrolment has been proved. To summarize finally ome more, I can say

1. It has been proved that when illegal actions occurred, these acts were committed only by individuals and therefore the organization cannot be charged therewith;
2. that the SA Leadership did neither order nor suffer these violation and therefore is not guilty;
3. that these excesses are in no way to be traced back to a criminal education or even a conspiracy with criminal aims.

Truth and Justice demand that an organization of millions, or its leadership, should not be declared criminal on account of these violations by individual members of the organization, after it has been established that the leadership at no time aimed at criminal actions, and the bulk of the members of the organization never committed criminal acts.

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The fact that several of the principal defendants were honorary leaders of the SA in no way alters, the evidence presented in regard to the SA. When Hermann GOERING headed the SA for a short time it had only a few thousand men. At that time it was nothing else but the Reichsbanner(semi-military organization of the German Left) for the SPD (Socialist Party of Germany).

The Leader Corps of the SA was composed neither of ruffians nor political wreckage. A few leaders - five altogether - who had not proved satisfactory, were eliminated in the events of 30 June 1934. This is the only criticism which can be leveled against BOEHM, the Chief of Staff at that time, who though in his political actions strove for order and integrity did not get rid of them in due time - thereby playing into the hands of his opponents.-In this four per-cent of the High Leader Corps are involved, still a small fraction which never could justify condemnations. Among the salaried Obergrup enfuehrer and Gruppenfuehrer of the period from 1934 to 1945 there was not one who had been previously convicted. This was a requirement which the Supreme SA Leadership had to demand of its members because of the regulation that the ordinary SA member's admission was contingent upon a police certificate. None of them was a so-called ruined career. They all had been trained for a definite profession, with good possibilities for advancement, before they took steps to enter as a salaried member into the Leadership Corps of the SA.

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That the political purpose of the SA w s based on patriotism alone has been conclusively shown by the evidence. ROEHM did everything to strengthen the communal ideas of the German people. His aim was to increase the confidence already won. He waged war on the excesses during the political revolution. He wished to win over the trade unions, not to destroy them. LUTZE in himself a weak personality, / repeatedly challenged incidents and measures of the Party. He opposed the party leadership. In a declaration in lieu of oath, which we submitted in evidence, it is stated that he condemned the so-called Nazism of the NSDAP. This is also the chief explanation of his well-known uncompromising opposition to HIMMLER and BORMANN. There was hardly a question on which he, as SA Chief of Staff, agreed with the two men. This applies especially to the question of the Herrenrasse and the attitude towards the Jews, to the Church question and also to the attitude towards political opponents.

If the Tribunal is looking objectively for the men guilty of the unspeaka disaster, which has befallen the whole world, then they might proceed from the individual point of view. This standpoint we also find in a speech of Pope PIUS XII, which he made on 20 February 1946:" Erroneous conceptions are circulating in the world which declare a man guilty and responsible solely because he was a member of or belonged to a community, without trying to examine or to investigat whether there really exists a personal responsibility for such acts of commissi or omission.

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That implies the arrogation of the rights of God, the Creator and Redeemer, who, in the mysterious planning of his always loving Providence, is solely the absolute master of events, and as such, who he thus decides in his eternal wisdom, links up the fates of guilty and innocent, responsible and irresponsible persons.

s/ GEORG BOEHM.

Attorney-at-Law

Nuernberg, August 1946. Defense Counsel of the SA

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Closing Speech - SA - (Dr. Boehm)

(English)

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